

U. H. Henry Spinke p^{lt} } The p^{lts} petⁿ being the same putt
 Journal Doctor Luke Barker def^t } in by him last Pro^{all} Court now read
 1659-69 in Court the def^t in answere thereto putteth in this his answere
 p. 202 & also the Charge which are as followeth.

To the R^t hono^{ble} the Leiutenn^t Generall
 and Councell of Maryland

The humble petⁿ of Luke Barber by way
 of answere to the petⁿ or declaracōn
 of Henry Spinke

Sheweth

That whereas the s^d Spinke accuseth yo^r pet^r of calling his wife Ellinor whore itt is true he denyeth itt not, nor any parte or parcell of the s^d Charges of immodest and lascivious Carriages of the sd Ellinor as they are charged & Contayned in the afores^d petⁿ or declaracōn and relating in the least to the said Ellinor but pleades a speciall Justificacōn as not actionable humbly throwing himselfe and Case vpon this most hono^{ble} Court & their Judgement whither any of the s^d words are actionable yo^r pet^r humbly Conceiving with Submission to yo^r honors they are not & then Conceives vnder the submission aforesaid a Jury ought not nor can have Cognizance thereof for ad Questionem Legis Judices ad questionem facte Juratores

The p^rmisses Considered yo^r pet^r humbly
 Craves such Releife for his vnjust molestacōn
 as yo^r honors thinke meete

And as in duty bound he shall
 pray &c.

The Charge

That Doctor Luke Barber did call Ellinor the now wife of Henry Spinke whore that he did divers tymes affirme that she was a Whore & that he had taken her with her Coates vp and that Rogue Thomas Hughes with his breeches downe. And that he brought none but Rogues and Whores out of England
 p. 203 some out of Bridewell some out of Newgate and some from the Whipping Poste & also th^t her oathe was false and malitious which he would prove

This being the Charge my Adversary accuses me with tis his duty to prove itt actionable yett for sattisfaccōn of this hono^{ble} Court I shall for once Endeavor to prove the negative (vizt)

That none of all the Charge is actionable & that out of Shepard & his authorities being the very booke the hono^{ble} Leivtenn^t Generall Chancellor and this hono^{ble} Court the other day made vse of in a case of the like nature ffirst then as to the words (whore) the said Shepherd fo 76 affirmes positively